

REMARKS

This reply is submitted pursuant to 35 U.S.C. §132 and 37 C.F.R. §1.111. The Office Action was carefully considered by applicant(s) and undersigned attorney. Reconsideration is respectfully requested.

As the Office Action was "Final", this reply is submitted with a Request for Continuing Examination (RCE) under the provisions of 37 C.F.R. §1.114.

1. Summary of the Office Action.

Claims 1-7 and 7-19 stand rejected under 35 U.S.C §102(b) over McCluney (US 5322409).

Claims 1-19 stand rejected under 35 U.S.C §103(a) over Harris (US 2378847) in view of McCluney (US 5322409).

2. Discussion.

Claim Rejections - 35 USC §102-103

Claim 1. This claim was rejected under 35 USC §102(b) as being anticipated by McCluney and under 35 USC §103(a) as being obvious over Harris in view of McCluney. In reply, applicant has further amended the claim to patentably distinguish and limit over the applied references.

The invention is a harvesting apparatus including a body support element arranged to support, in use, a person who is picking or harvesting a crop. As amended, the invention requires that the body support element can be moved in the direction of movement of the harvesting apparatus, either forwards or backwards, through a distance of the order of 1m or more to allow the speed of movement over the ground of the body support element to be temporarily increased or decreased compared to the speed of movement of the support structure. Consequently, if the person picking or harvesting the crop notices that there is a gap or region in which the crop is of low density, he can increase his speed until he reaches a more densely packed crop region whereon he can decrease his speed to ensure that the crop is properly and fully harvested.

As noted by the Examiner, McCluney relates to a harvesting apparatus in which a picker is supported upon a sling. Although it may be possible for the sling to be moved in the fore-aft direction of the harvesting apparatus, such movement is not described. Rather, only sideways movement is described. For example, McCluney talks about the pickers being able to "swing themselves out to reach fruit on the far side of plants." There is no suggestion of the pickers moving in the fore-aft direction. Further, the description of the sling makes it clear that the picker's legs are supported, for example by leg loops. Such support of the pickers legs would significantly restrict if not prevent movement in the fore-aft direction. Even if the picker's legs were not so supported, the distance through which a picker would be able to move himself, in the fore-aft direction, simply through flexing or bending of his legs would be very limited, for example of the order of 0.6m for a reasonably tall individual (less for someone shorter), considerably less than the 1m distance now recited in currently amended Claim 1.

The addition of Harris does not remedy the shortcoming in fully meeting the claim as currently amended. Harris discloses only an arrangement in which the body support element can be raised and lowered, not one in which it can be driven backwards and forwards.

As neither McCluney nor Harris describe an arrangement in which a body support element can be moved in the "first" direction by an extended distance or through an extended range (in the language of Claim 1) of the order of 1m or more, the applicant believes that the claimed invention is allowable and such is respectfully requested.

Claim 16. This claim was also rejected as being anticipated by McCluney and as being obvious over Harris in view of McCluney.

In the prior office action, the claim was rejected as being anticipated by Harris. Applicant amended the claim in the prior Reply to require that the apparatus be used by selectively moving the body support element to temporarily increase or decrease the speed of movement of the body support element. Applicant's assertion that this element was not shown, suggested or rendered obvious by the applied art was not rebutted in this office action.

Applicant reasserts his argument that dependent claim 16 is patentable for this reason over and above reasons presented for base claim (currently amended). Allowance is respectfully requested.

3. Conclusion.

The pending claims are believed to be patentable for the reasons stated above. The amendments are believed to be supported by the specification, claims and drawings as filed. It is believed that this case is in a condition for allowance. Reconsideration and favorable action are respectfully requested.

Should the Examiner believe that telephone communication would advance the prosecution of this case to finality, he is invited to call at the number below.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time under 37 CFR 1.136(a), provided a Petition is not submitted separately.

Please charge any fee due not paid by a check or credit card provided herewith, and/or charge any underpayment in any fee, and/or credit any overpayment in fee, to Deposit Account No. 19-2381.

ANY FEES DUE ARE CALCULATED AS FOLLOWS:		<u>NUMBER</u>	<u>FEE</u>
TOTAL Claims Remaining over that Previously Paid:		None	\$0
INDEPENDENT Claims Remaining over that Previously Paid:		None	\$0
	SUM Claim Fees:		\$0
EXTENSION Fees:			\$65
OTHER Fees:			\$405
	<u>TOTAL AMOUNT (if any)</u>		\$470

☐ Paid by enclosed check.

☒ Paid by enclosed Credit Card Payment Form(s) PTO-2038.

Respectfully submitted,



Date: 4-10-09

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REQUEST FOR EXTENSION OF TIME

Pursuant to 37 C.F.R. 1.136(a), Applicant(s) requests that a 01 month extension be granted in which to file the attached communication from the applicant(s).

A \$ 65 payment, for a ☒ small ☐ large entity, is enclosed for the fee required under 37 CFR 1.17.

Please charge any additional or underpayment in fee due, or credit any overpayment, to Deposit Account No. 19-2381.

Respectfully submitted,



Date: 4-10-09

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